

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

FREDERICK D. FOLETTI,

Petitioner,

v.

R. CATERNOLO,

Respondent.

Case No. 2:24-cv-00542-RSM-TLF

ORDER FOR SERVICE AND
RETURN, 28 U.S.C § 2241
PETITION

Petitioner has filed a 28 U.S.C. § 2241 habeas petition allegedly challenging the execution of his sentence by United States Bureau of Prisons. Dkt. 3. Having reviewed the Petition, the Court ORDERS:

(1) Notice of Option of Consent

The Clerk is directed to issue the Notice of Option of Consent to Magistrate Judge Theresa L. Fricke.

(2) Service

The Clerk shall arrange for service upon respondent, upon the United States Attorney General in Washington, D.C., and upon the civil process clerk at the Office of the United States Attorney for the Western District of Washington, of copies of the petition and of this Order, by registered or certified mail, return receipt requested.

(3) Return

1 Within 30 days of the date this Order is posted, Respondent shall show cause
2 why a writ of habeas corpus should not be granted by filing a Return as provided in 28
3 U.S.C. § 2243. The Return shall first address whether § 2241 is the proper vehicle for
4 addressing Petitioner's challenge and if jurisdiction lies with the custodial court. See
5 *generally Hernandez v. Campbell*, 204 F.3d 861 (9th Cir. 2000). If the challenge may
6 proceed under § 2241 and is properly before this Court, then Respondents shall also
7 address and submit evidence relevant to Petitioner's allegation that his sentence is
8 being unlawfully executed. Respondents shall file the Return with the Clerk of the Court
9 and shall serve a copy upon Petitioner.

10 The Return will be treated in accordance with LCR 7. Accordingly, on the face of
11 the Return, Respondent shall note it for consideration no earlier than 28 days after filing.
12 Petitioner may file and serve a response not later than 21 days after the filing date of
13 the Return, and Respondent may file and serve a reply brief not later than 28 days after
14 the return is filed.

15 (4) Filing by Parties, Generally

16 All attorneys admitted to practice before this Court are required to file documents
17 electronically via the Court's CM/ECF system. All non-attorneys, such as pro se parties
18 and/or prisoners, may continue to file a paper original with the Clerk. All filings must
19 indicate in the upper right-hand corner the name of the United States Magistrate Judge
20 to whom the document is directed.

21 For any party filing electronically, when the total of all pages of a filing exceeds
22 fifty (50) pages in length, a paper copy of the document (with tabs or other organizing
23 aids as necessary) shall be delivered to the Clerk's Office for chambers. The chambers
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copy must be clearly marked with the words "Courtesy Copy of Electronic Filing for Chambers." Any document filed with the Court must be accompanied by proof that it has been served upon all parties that have entered a notice of appearance in the underlying matter.

(5) Motions

Any request for court action shall be set forth in a motion, properly filed and served. Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a part of the motion itself and not in a separate document. The motion shall include in its caption (immediately below the title of the motion) a designation of the date the motion is to be noted for consideration on the Court's motion calendar.

(6) Direct Communications with District Judge or Magistrate Judge

No direct communication is to take place with the District Judge or Magistrate Judge with regard to this case. All relevant information and papers are to be directed to the Clerk.

The Clerk is directed to send copies of this Order to Petitioner and the Honorable Ricardo S. Martinez.

Dated this 21st day of May, 2024.



Theresa L. Fricke
United States Magistrate Judge

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